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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/445,268	04/03/2000	DANIEL RICHARD SCHNEIDEWEND	RCA89068	9731

24498 7590 12/18/2006  
THOMSON LICENSING INC.  
PATENT OPERATIONS  
PO BOX 5312  
PRINCETON, NJ 08543-5312

EXAMINER
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VAN HANDEL, MICHAEL P

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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12/18/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/445,268

Applicant(s)

SCHNEIDEWEND ET AL.

Examiner

Michael Van Handel

Art Unit

2623

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 27 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
**CHRIS KELLEY**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

Applicant's arguments regarding the rejections of claims 18-21 under 35 USC 112, second paragraph, filed 11/27/2006, have been fully considered and are persuasive. Therefore, the 35 USC 112, second paragraph rejections of claims 18-21 have been withdrawn.

Regarding claims 16, 18, and 22, the applicant argues that the examiner's conclusion of obviousness is based upon improper hindsight reasoning. It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Further regarding claims 16, 18, and 22, the applicant argues that LaJoie et al. fails to even recognize the specific problems that the applicants have recognized and addressed by the inventions defined by the claims. The examiner respectfully disagrees. As stated in the Office Action mailed 9/21/2006, LaJoie et al. recognizes that certain conflicts may arise in the use of multiple timers. Upon modifying a timer setting's contents, set-top terminal 6 checks to verify that there are no conflicts created by the modified setting. Conflicts can arise when there are overlapping timers, unusual settings, etc. (col. 21, l. 30-42). For example, if two recording timers partially overlap, the system is capable of resolving the conflict by overwriting the old setting with the new setting (col. 21, l. 65-67). Regarding the applicant's argument that LaJoie et al. fails to teach or suggest the desirability of the inventions defined by the claims, the examiner respectfully disagrees. The fact that LaJoie et al. discloses an all timers list that causes a list for each active timer in the set-top terminal to be displayed and from which an active timer can be canceled and removed from the list is representative of a desirability to provide a user with a way to manage timers that is not confusing. Thus, the examiner maintains that it would have been obvious to one of ordinary skill in the art at the time that the invention was made to remove a scheduled event from a list in response to removing the event from a list of all scheduled events in order to avoid confusing a user.

Regarding claims 17, 20, and 24, the applicant argues that the examiner's conclusion of obviousness is based upon improper hindsight reasoning. It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Regarding claims 17, 20, and 24, the applicant argues that LaJoie et al. fails to even recognize the specific problems that the applicants have recognized and addressed by the inventions defined by the claims. The examiner respectfully disagrees. As stated in the Office Action mailed 9/21/2006, LaJoie et al. discloses that a PPV program can be scheduled for purchasing and recording or simply for purchasing (top listing and third listing from bottom, respectively)(Fig. 14). Since a PPV timer and a record timer is set for a program to be purchased and recording, canceling a program scheduled for purchasing and recording in the all timers listing would result in an unusual scenario, because two timers would be affected. LaJoie et al. discloses solving such conflicts through the use of interactive warning windows, as noted above. The applicant also argues that "the Examiner's reference to the 'conflict checking feature' of LaJoie is misplaced ... since the method defined by these claims would not necessarily create a conflict." The examiner respectfully disagrees. The applicant's specification states that if a recording timer is cleared the program checks whether the recording timer is related to a purchased event. If it is, it causes a display screen to be shown (p. 29, l. 22-28 & Fig. 12). Thus, the examiner notes that, as in LaJoie et al., there are essentially two timers associated with the program, a purchase timer and a record timer. Therefore, the examiner maintains that the methods for resolving overlapping timers and unusual scenarios of LaJoie et al. are applicable to applicant's invention. LaJoie et al. also discloses that interactive warning windows are displayed to warn or alert users of the conflicts or unusual scenarios (col. 21, l. 15-67 & col. 22, l. 1-5). The fact that LaJoie et al. discloses such features is representative of a desirability to provide a user-friendly interface. Since LaJoie et al. teaches resolving conflicts between two timers through the use of interactive warning windows, the examiner maintains that it would have been obvious to one of ordinary skill in the art at the time that the invention was made to use a conflict checking feature to allow a user the options of either purchasing and viewing a program or canceling the program from the all timers list in order to provide a more user-friendly interface.